

BANK INDONESIA REGULATION  
NUMBER: 8/5/PBI/2006  
CONCERNING  
BANKING MEDIATION

THE GOVERNOR OF BANK INDONESIA,

Considering : a. whereas customer complaint settlement by banks are not always satisfactory for the customer and may cause banking disputes between the customer and the bank;  
b. whereas time consuming banking dispute settlement may disadvantage the customer and increase the bank's reputational risk;  
c. whereas banking dispute between the customer and the bank may be settled in a simple, efficient and speedy manner by way of mediation;  
d. whereas based on considerations referred to in letter a, letter b, and letter c, it is considered necessary to stipulate a Bank Indonesia Regulation concerning Banking Mediation;

In view of : 1. Act Number 7 Year 1992 concerning Banking (State Gazette of the Republic of Indonesia Year 1992 Number 31, Supplement to State Gazette of the Republic of Indonesia Number 3472) as amended by Act Number 10 Year 1998 (State Gazette of the Republic of Indonesia Year 1998 Number 182 Supplement to State Gazette of the

Republic of Indonesia Number 3790);

2. Act Number 8 Year 1999 concerning Customer Protection (State Gazette of the Republic of Indonesia Year 1999 Number 42 Supplement to State Gazette of the Republic of Indonesia Number 3821);
3. Act Number 23 Year 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Year 1999 Number 66, Supplement to State Gazette of the Republic of Indonesia Number 3843) as amended by Act Number 3 Year 2004 (State Gazette of the Republic of Indonesia Year 2004 Number 7, Supplement to State Gazette of the Republic of Indonesia Number 4357);
4. Act Number 30 Year 1999 concerning Arbitration and Alternative Dispute Settlement (State Gazette of the Republic of Indonesia Year 1999 Number 138, Supplement to State Gazette of the Republic of Indonesia Number 3872);
5. Bank Indonesia Regulation Number 7/7/PBI/2005 concerning Customer Complaint Settlement (State Gazette of the Republic of Indonesia Year 2005 Number 17, Supplement to State Gazette of the Republic of Indonesia Number 4476);

HAS DECIDED :

To enact : BANK INDONESIA REGULATION CONCERNING  
BANKING MEDIATION

## CHAPTER I GENERAL PROVISIONS

### Article 1

In this Bank Indonesia Regulation, the following terminologies shall have the following meanings:

1. Bank shall be Commercial Bank and Rural Bank as referred to in Act Number 7 Year 1992 concerning Banking as amended by Act Number 10 Year 1998, including branch offices of foreign banks.
2. Customer shall be any party using Bank's services, including a party having no account at the bank but uses the Bank's services for financial transactions (walk-in customer).
3. Customer Representative shall be individual, institution, and or legal entity acting for and on behalf of the Customer based on a specific power of attorney from the Customer.
4. Dispute shall be a complaint submitted by the Customer or Customer Representative to a banking mediator, after the dispute had undergone a dispute settlement process by the Bank as stipulated in Bank Indonesia Regulation concerning Customer Dispute Settlement.
5. Mediation shall be Dispute settlement process involving a mediator to assist disputing parties to reach a settlement in the form of voluntary agreement for some or all aspects of the problem under dispute.
6. Mediator shall be independent party assisting in the Mediation process.
7. Settlement shall be agreement between Customer or Customer Representative and the Bank concerning the Dispute settlement effort .
8. Settlement Deed shall be written document detailing a final and binding Settlement agreement for the Customer and the Bank.

## CHAPTER II

### IMPLEMENTATION OF BANKING MEDIATION

#### Article 2

A Dispute between a Customer and a Bank which is caused by the Bank's not fulfilling the Customers' financial claim in the Customer complaint settlement may undertake settlement through banking Mediation.

#### Article 3

- (1) Banking Mediation shall be conducted by an independent banking Mediation institution formed by a banking association.
- (2) The independent banking Mediation institution as referred to in paragraph (1) must have been formed no later than December 31, 2007.
- (3) In performing its task, the independent banking Mediation institution shall maintain coordination with Bank Indonesia.
- (4) Insofar as the independent banking Mediation institution as referred to in paragraph (1) has not been formed, the banking Mediation function shall be performed by Bank Indonesia.

#### Article 4

The banking Mediation function performed by Bank Indonesia as referred to in Article 3 paragraph (4) shall be limited to efforts in assisting Customers and Banks to review the Dispute at its core in order to reach an Agreement.

#### Article 5

- (1) In performing Banking Mediation function as referred to in Article 4, Bank Indonesia shall appoint a Mediator.

(2) The...

- (2) The Mediator as referred to in paragraph (1) must at least fulfill the following qualifications :
- a. has knowledge in banking, finance and or law;
  - b. does not have any financial interest or other interests in the Dispute settlement; and
  - c. does not have blood relationship or marriage related relationship for up to the second degree with the Customer or Customer Representative and the Bank.

#### Article 6

- (1) The Banking Mediation function as referred to in Article 2 shall be performed for any Dispute with a financial claim of no more than Rp500,000,000.00 (five hundred million rupiahs).
- (2) Customers may not submit a financial claim for consequential damages.

### CHAPTER III

#### BANKING MEDIATION PROCEEDING

#### Article 7

- (1) The submission of Dispute settlement for banking Mediation to Bank Indonesia shall be made by the Customer or Customer Representative.
- (2) In the event that a Customer or Customer Representative submits a Dispute settlement application to Bank Indonesia, the Bank must attend to Bank Indonesia's summon.

#### Article 8

The submission of Dispute settlement as referred to in Article 7 paragraph (1) must fulfill the following requirements:

1. submitted in writing and enclosed with sufficient supporting documents;
2. had previously been submitted by the Customer to the Bank for settlement;
3. the submitted Dispute is not currently being processed or had never been decided on by an arbitration institution or a court, or had never reached an Agreement facilitated by another Mediating institution;
4. the submitted Dispute is a civil Dispute;
5. the submitted Dispute had never previously been processed by way of banking Mediation facilitated by Bank Indonesia; and
6. the submission of the Dispute settlement had not exceeded 60 (sixty) working days since the date of the Complaint settlement result letter sent by the Bank to the Customer.

#### Article 9

- (1) The Mediation Process shall begin after the Customer or Customer Representative and the Bank signed the agreement to mediate which shall cover :
  - a. An Agreement to select Mediation as an alternative Dispute resolution method; and
  - b. An agreement to obey and comply with Mediation rules stipulated by Bank Indonesia.
- (2) The Bank shall follow and comply with the agreement to Mediate signed by the Customer or Customer Representative and the Bank.

#### Article 10

- (1) The Customer and the Bank may assign a power of attorney to another party in the Mediation Process.

(2) The...

- (2) The power of attorney assignment as referred to in paragraph (1) shall be done through a special power of attorney letter which shall at least state the authority of the power of attorney's recipient to make a decision.

#### Article 11

- (1) The process of Mediation until the signing of the Agreement Deed shall have been completed in no more than 30 (thirty) working days after the Customer or the Customer Representative and the Bank signed the agreement to mediate as referred to in Article 9 paragraph (1).
- (2) The time period of the Mediation process as referred to in paragraph (1) may be extended for another 30 (thirty) working days based on an Agreement between the Customer or the Customer Representative and the Bank.

#### Article 12

The Agreement between the Customer or the Customer Representative and the Bank resulting from the Mediating Process shall be put into an Agreement Deed signed by the Customer or the Customer Representative and the Bank.

#### Article 13

The Bank shall implement the result of the banking Dispute settlement between the Customer and the Bank as agreed on and put into writing in the Agreement Deed.

### CHAPTER IV

#### MISCELLANEOUS PROVISIONS

#### Article 14

Each Bank shall inform the availability of Mediation as an alternative banking Dispute resolution to Customers.

#### Article 15

The submission of Dispute settlement as referred to in Article 8 shall be addressed to the Directorate of Banking Investigation and Mediation, Bank Indonesia, Radius Prawiro Tower 19th Floor, Jalan M.H. Thamrin No. 2, Jakarta 10110.

### CHAPTER V

#### SANCTIONS

##### Article 16

- (1) Banks violating the provisions referred to in Article 7 paragraph (2), Article 9 paragraph (2), Article 13, and Article 14 will be imposed with an administrative sanction pursuant to Article 52 of Act Number 7 Year 1992 concerning Banking as amended by Act Number 10 Year 1998, in the form of written warning.
- (2) The violation referred to in paragraph (1) may be calculated for in evaluating the Bank's soundness rating.

### CHAPTER VI

#### TRANSITIONAL PROVISIONS

##### Article 17

Disputes arising from Customer dispute settlement result already provided by the Bank based on Bank Indonesia Regulation concerning Customer Dispute Settlement prior to the enactment of this Bank Indonesia Regulation may be submitted to Bank Indonesia no later than June 30, 2006.

### CHAPTER VII

#### CLOSING PROVISIONS

##### Article 18

Further...



- 9 -

Further provisions concerning the operation of Banking Mediation will be stipulated in a Bank Indonesia Circular Letter.

Article 19

This Bank Indonesia Regulation shall start to take effect on June 1, 2006.

Enacted in Jakarta

On January 30, 2006

GOVERNOR OF BANK INDONESIA

BURHANUDDIN ABDULLAH

STATE GAZZETTE OF THE REPUBLIC OF INDONESIA 2006 NUMBER 7

DPNP/DPbS/DPBPR

ELUCIDATION  
TO  
BANK INDONESIA REGULATION  
NUMBER: 8/5/PBI/2006  
CONCERNING  
BANKING MEDIATION

GENERAL

Customer Dispute Settlement by banks as stipulated in Bank Indonesia Regulation Number 7/7/PBI/2005 dated January 20, 2005 Concerning Customer Dispute Settlement had not always satisfied customers. Dissatisfaction may be caused by unfulfilled customer's claim, either in full or in parts. In turn, dissatisfaction may result in dispute between the customer and the bank which, if not quickly settled, may affect the bank's reputation, decrease public trust on banking institutions, and impair the customer's rights.

Dispute settlement effort between the customer and the bank may be pursued by way of negotiation, conciliation, mediation, arbitration, as stipulated in Act Number 30 Year 1999 concerning Arbitration and Alternative Dispute Settlement, as well as through the court of law. However, dispute settlement effort through arbitration or through court is not easy for small scale customers and micro and small scale businesses since these efforts will require time and money in significant amount. Therefore, dispute settlement between banks and small scale customers and micro and small scale businesses need to be implemented in a simple, efficient, and speedy manner through banking mediation in order to safeguard and fulfill their rights as customers.

Considering the importance of banking mediation in settling disputes between customers and banks, the banking association shall immediately form an independent banking mediation institution. Nevertheless, since the formation of

an independent...

an independent banking mediation institution could not be done in a short period of time whilst the need for banking mediation could no longer wait, then initially the banking mediation function shall be performed by Bank Indonesia. The performance of banking mediation function by Bank Indonesia is done by bringing customer and bank together in order to review the core of the problem under dispute in order to reach an agreement without any recommendation or decision from Bank Indonesia. Thus, the banking mediation function performed by Bank Indonesia shall be limited to facilitating a meeting place, assisting customers and banks to state the core of the problem under dispute, providing resource persons, and seeking a dispute settlement agreement.

Furthermore, since the independency and the credibility of the banking mediation implementation are the main factors to pursuit, the banking mediation proceeding shall be established and conducted in line with international best practices as well as prevailing laws and regulations to ensure that the dispute settlement through banking mediation will benefit both the customer and the bank.

## ARTICLE BY ARTICLE

### Article 1

Self Explanatory.

### Article 2

The meaning of financial claim is the Customer's potential financial loss which is considered as being caused by the Bank's mistake or negligence as referred to in Bank Indonesia Regulation concerning Customer Dispute Settlement.

### Article 3

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Bank Indonesia shall only perform banking Mediation activities and shall not establish a special institution for the purpose.

#### Article 4

The meaning of “assisting Customers and Banks” is that Bank Indonesia shall facilitate Dispute settlement by way of summoning, bringing to meet, hearing, and motivating the customer and the bank to reach an agreement without giving a recommendation or a decision.

#### Article 5

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

#### Article 6

Paragraph (1)

The financial claim value shall cover direct damage/loss and or expenses already paid for by the Customer in the effort to settle the Dispute.

Paragraph (2)

Included as “consequential damage” shall be damage/loss due to defamation and misdemeanor.

#### Article 7

Paragraph...

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

Article 8

Number 1

The supporting documents are, among others, proof of the Customer's financial transaction.

Number 2

The effort to make a settlement with the Bank shall be proven by a document stating the receipt of complaint and or a letter issued by the Bank concerning the result of complaint settlement.

Number 3

The meaning of "submitted Dispute is not currently being processed by an arbitration institution, a court, or other mediating institution" is that the Dispute had never been submitted by the Customer and or the Bank to the institutions or that the Dispute settlement effort with the said institutions had been terminated.

Number 4

Self Explanatory.

Number 5

Disputes which had previously been processed by way of banking Mediation facilitated by Bank Indonesia may not be reprocessed.

Number 6

Self Explanatory.

Article 9

Paragraph (1)

Self Explanatory.

Paragraph (2)

Self Explanatory.

#### Article 10

Paragraph (1)

Self Explanatory.

Paragraph (2)

The purpose of stating the authority of the power of attorney's recipient to make a decision is aimed to enable the Mediation process to run effectively.

#### Article 11

Paragraph (1)

Self Explanatory.

Paragraph (2)

The purpose of time period extension is, among others, to anticipate for time adjustment needed to present a specific resource person having expertise and competence in the matter under dispute.

#### Article 12

The Agreement Deed may contain full Agreement or partial Agreement on the matter under dispute, or a statement that no Agreement has been reached by the Mediation process.

#### Article 13

The purpose of obligating the Bank to implement the Dispute settlement result is, among others, to anticipate the Bank's reputational risk.

#### Article 14

Publication may be done by using brochures, leaflets, announcements, and or other media and shall at least include the procedure for the Customer to submit Dispute settlement to Bank Indonesia.

Article 15

Self Explanatory.

Article 16

Paragraph (1)

Self Explanatory.

Paragraph (2)

The aspect to be calculated for in the Bank's soundness rating evaluation shall be the management aspect.

Article 17

Self Explanatory.

Article 18

Self Explanatory.

Article 19

Self Explanatory.